

**AGENDA:** December 7, 2004

**7.1**

**CATEGORY:** New Business

**DEPT.:** City Manager

**TITLE:** Comment Letter on Don Edwards San  
Francisco Bay National Wildlife Refuge  
Hunting Plan for Waterfowl

### **RECOMMENDATION**

Consider possible comments on the Don Edwards San Francisco Bay National Wildlife Refuge Hunting Plan for Waterfowl, and authorize the Mayor to send a letter of comment to the Refuge.

### **FISCAL IMPACT**

There is no fiscal impact directly associated with approval of the recommendation.

### **BACKGROUND AND ANALYSIS**

On November 3, 2004, the United States Fish and Wildlife Service (USFWS) released for public comment three documents concerning waterfowl hunting on the Don Edwards San Francisco Bay National Wildlife Refuge: (1) Amendment to Refuge Hunting Plan for Waterfowl (Hunting Plan) on 5,500 acres of Former Commercial Salt Ponds; (2) Draft Environmental Assessment; and (3) Compatibility Determination. The Amendment to the Hunting Plan (Attachment 1) proposes to open approximately 2,622 acres of salt ponds to hunting three days a week. The Environmental Assessment evaluates this proposal, plus an alternative to allow no hunting on the recently acquired 5,500 acres and a third alternative to allow hunting on 5,000 acres. The Compatibility Determination evaluates the proposed amendment's compatibility with the purposes and mission of the National Wildlife Refuge System. The public comment period on these documents ends December 3, 2004. However, the USFWS has agreed to accept late comments from the City to accommodate the City Council's December 7 meeting.

The proposed alternative for the Amendment to the Hunting Plan would prohibit hunting on Salt Ponds A1 and A2W, directly north of Shoreline at Mountain View, and limit hunting to three days a week during hunting season (mid-October to late January) on the system of ponds north of Moffett Federal Airfield (MFA) (map provided as Attachment 2). Access to the ponds north of MFA would be vehicular access from the end of Crittenden Lane, over the bridge at Stevens Creek, and up the levee on the east side of Stevens Creek (Attachment 3). Up until 2003, hunting was permitted on Ponds A1 and A2W, and hunters accessed those ponds by driving on trails through Shoreline at Mountain View.

This Hunting Plan would remain in effect until public uses and waterfowl hunting are reconsidered pursuant to the South Bay Salt Pond Restoration Plan, the long-term restoration plan currently being developed that will begin to be implemented in 2008 and continue in phases for 20 to 50 years. It is not yet known how soon after 2008 the ponds north of MFA will be restored, nor to what configuration, although it is anticipated at least part of them will become tidal marsh.

At a study session on September 28, 2004, the Council provided input on the USFWS's preliminary options for waterfowl hunter access to the ponds north of MFA. Staff summarized Councilmembers' preliminary comments in a letter to USFWS on October 12, 2004 (Attachment 4). At the study session, Council expressed interest in providing formal comments during the public review period for the Hunting Plan.

As a general rule, hunting is regulated by State and Federal law. Local agencies can, however, control hunting on property they own or control and may have some limited ability to control access to and/or parking activities related to hunting.

Staff has reviewed the Hunting Plan and has drafted several comments concerning minor inaccuracies and other details. However, there are several broader policy-level issues the Council may or may not choose to include in the Mayor's comment letter. Staff is seeking Council's position on these following issues:

1. Even though the City does not control use of the ponds, the Council may choose to take a position on whether or not they support hunting on the ponds north of MFA. Alternative positions could be: (1) to support hunting only on ponds, or portions of ponds, which are not bordered by current public-use trails; or (2) recommend that the USFWS's decision about allowing hunting on the ponds closest to Mountain View, A2E and B1, be postponed until the South Bay Salt Pond Restoration Plan is finalized and it is determined whether these ponds, or portions of them, will be restored to tidal marsh or not and what the final trail and levee alignments will be.
2. The Council may choose to take a position on whether or not they support access through Mountain View for hunters to reach the ponds. The City could control parking on property under the control of the City and possibly the carrying of firearms across City property. However, the Council may choose to recommend alternative access points, such as through the Sunnyvale Treatment Plant trailhead or by boat-in-only access.
3. The Council may choose to support the USFWS's proposed access route and method for hunters to reach the ponds or recommend an alternative route and/or method, such as

hunters parking at the Crittenden Lane cul-de-sac or the nearby Crittenden lot and walking or biking across Stevens Creek Trail, over the bridge, and up the east-side levee.

Council's position on these issues and any others determined by the Council will be included in the Mayor's comment letter along with other detailed staff-level comments. Again, the intent of the staff-level comments will be to suggest minor corrections in the Hunting Plan and address operational and monitoring details that would help to minimize impacts from hunting access. One of these comments suggests, in support of the City of Sunnyvale City Attorney's discussions with USFWS, that each hunter be required to sign a Hold Harmless provision as part of their Special Use Permit for hunting. This provision would offer some limited protection to the City in the event a third party or the hunter is injured or killed.

### **CONCLUSION**

Because waterfowl hunting is one of six priority public uses of national wildlife refuges, the USFWS wants to reopen hunting in the 2005-06 hunt season on ponds north of MFA and elsewhere in the Alviso System that have been closed to hunting since the 2003 USFWS purchase of the ponds. Hunting on Ponds A1 and A2W adjacent to Shoreline at Mountain View would be prohibited. Staff is seeking the Council's positions on the issues outlined above and other issues identified by the City Council related to the Hunting Plan, to be included with other staff-level comments in a letter from the Mayor to the Don Edwards San Francisco Bay National Wildlife Refuge.

Prepared by:

Approved by:

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KW/5/CAM  
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- Attachments:
1. Amendment To Refuge Hunting Plan For Waterfowl
  2. Map of Salt Ponds
  3. Map of Crittenden Lane Access Point

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4. October 12, 2004, Letter to Mr. Clyde Morris, Refuge Manager

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cc: Ms. Amy Chan, City Manager – City of Sunnyvale

Ms. Sandy Olliges – NASA Ames Research Center

Mr. Clyde Morris, Refuge Manager – Don Edwards San Francisco Bay National  
Wildlife Refuge

ACSD